

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
June 15, 2006
1:00 p.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, June 15, 2006 in Nashville, Tennessee at 9:30 a.m. Chairman John Jones and Harlan Mathews were present. Although Commissioner Cynthia Bond was not in attendance, a quorum was present and the meeting was held. Executive Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens, ASAC Andy Woodall, SA Debra Warren, SA Amy Farmer and SA Stacy Fry from the staff were present.

1. The Minutes for May 18, 2006 Commission Meeting were approved.

2. RETAIL PACKAGE STORES

**A. J.T. LIQUORS
ANTIOCH, TENNESSEE (DAVIDSON COUNTY)**

**Licensee/Seller: Ahmad Tamim Wahidi
Applicant/Buyer: Meselech Terefe Aga**

Before the Commission is a request for a transfer of ownership of the retail store currently located at 2723-B Murfreesboro Road, Antioch, Tennessee. Based upon applicant's questionnaire, Ms. Aga is purchasing the business for \$80,000. Financing is based upon personal joint checking account with her husband. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy;
- c. Bill of Sale;
- d. Clarification of either having husband on application or merely assisting in financing.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the TABC inspection, clarification of either having husband on application or merely assisting in financing and the verification that the outstanding taxes owed to the Tennessee Department of Revenue has been paid.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Chairman Jones seconded the motion, and it was approved with 2 ayes.

**B. PINNACLE WINE & SPIRITS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Mike's Top Flight Wine & Spirits, LLC
Member: Michael Foltz

Before the Commission is a request for a new retail store to be located at 11385 Parkside Drive in Knoxville, Tennessee. Mr. Michael Foltz is the sole member of the applicant, and has a \$650,000 line of credit with American Trust Bank to purchase equipment and inventory. Staff has received questions and comments regarding possible connections with other existing retail stores in Knoxville owned by the Gettlefinger family. All documentation has been submitted with the exception of the following:

- a. New application and questionnaire (were submitted on old forms);
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. Use and Occupancy permit;
- e. Any franchise agreements, management agreements that exist;
- f. Any document that may exist indicating a relationship or affiliation with an on-premise applicant or licensee, or any other retail store.

Discussion/Action Taken:

Mr. Michael Foltz was present at the meeting. Chairman Jones recognized Representative Armstrong as being present at the meeting. Director Elks reviewed the application for the Commissioners. Director Elks advised that the new application and questionnaire had been submitted. She recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. Use and Occupancy permit;
- d. Any franchise agreements, management agreements that exist;
- e. Any document that may exist indicating a relationship or affiliation with an on-premise applicant or licensee, or any other retail store.

Director Elks stated that the staff had asked for any franchise agreements, management agreements or any documentation that may exist indicating any relationship or affiliation with an on-premise licensee. She stated that the reason

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that they had requested these documents because the staff received complaints and/or concerns regarding Mr. Foltz's application. Mr. Foltz is in business with the Gettlefinger family, which owns several retail stores in the Knoxville area. Mr. Foltz stated that he runs Kelso Oil Company and is a stockholder in Kelso Oil. Mr. Foltz stated that Herman Gettlefinger is president of Kelso Oil Company and also a stockholder. Ms. Elks stated that Herman Gettlefinger owns a retail package store. She further stated that whenever a Gettlefinger submits an application for a retail store, the staff generally receives comments from the general public. Director Elks stated that that is why she suggested Mr. Foltz be present at the Commission meeting.

Chairman Jones stated that the staff had received a letter addressed to Director Elks from Robert M. Gilbertson of Bob's Package Store in Knoxville who asked that the TABC "be on the alert"; because co-mingling of interests among the Gettlefinger family may exist. Chairman Jones stated that Mr. Gilbertson has stated that previously. Chairman Jones stated that the staff had done some research in a previous case involving one of the Gettlefinger family members and found that there was no co-mingling of interest in violation of our rules and regulations. Director Elks stated that the staff found no evidence of such. Chairman Jones asked if there was anyone in attendance who would like to speak in opposition to this license. There was no one in attendance who spoke in opposition.

Chairman Jones made a motion to approve the application. Commissioner Mathews seconded the motion and it was approved with 2 ayes.

Commissioner Mathews stated that the Commission operates on the basis of the information before it and that the Commission does its best to determine what the truth of the situation is that comes to our attention. Commissioner Mathews stated that Director Elks has indicated that there is no proof in the record nor is there anyone here today to contest this matter.

Director Elks advised Mr. Foltz that he cannot operate the store in conjunction with any other retail matter and that he would have to act independently of any and all stores. Mr. Foltz stated that he understands the conditions. He stated that there are no franchises or management agreements that exist except for the operating agreement which the staff has a copy of. He further stated that there is no document that exists indicating a relationship with an affiliation on an on-premise applicant or licensee or any other retail store.

**C. POLO WINE AND LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: Helena Stever
Applicant/Buyer: Cecil Errol Dunn

Before the Commission is a request for a transfer of ownership of the retail store currently located at 7444 Winchester #109, in Memphis, Tennessee. Mr. Cecil Dunn desires to purchase the store for \$635,000—which includes \$150,000 for existing inventory. Financing is based upon a SBA loan with Trust One Bank, and a \$160,000 line of credit with Cadence Bank. All documentation has been submitted with the exception of the following:

Line of Credit with Cadence Bank.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She stated that the Line of Credit with Cadence Bank had been received and recommended approval.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Chairman Jones seconded the motion, and it was approved with 2 ayes.

**D. QUEEN CITY LIQUORS (currently doing business as Tiny Town
Package Store)
CLARKSVILLE, TENNESSEE (MONTGOMERY COUNTY)**

Licensee/Seller: Diane G. Willcox
Applicant/Buyer: Ashok K. Bhagchand

Before the Commission is a request for a transfer of ownership of the retail store currently located at 1477 Tiny Town Road in Clarksville, Tennessee. Mr. Bhagchand desires to purchase the retail store for \$35,000 plus the cost of existing inventory. Financing is based upon a line of credit with Legends Bank. If approved, the applicant would like to transfer the location of the store from 1477 Tiny Town Road to 1232 Tyler Town Road in Clarksville, Tennessee. It should be noted that all documents related to the transfer of ownership reflect the new location. All documentation has been submitted with the exception of the following:

- a. Newspaper notice and accompanying affidavit;
- b. Written confirmation that other businesses the applicant owns does not have any liquor licenses;
- c. Use and Occupancy permit;
- d. TABC Inspection;
- e. Line of Credit document.
- f. Acknowledgement of the Rules and Regulations

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She stated that all documentation with the exception of the Use and Occupancy, TABC Inspection and acknowledgement of the Rules and Regulations. She further stated that the proposed location has not yet been completed. The shell of the building is there but the interior of the building has not yet been completed.

Director Elks stated that this afternoon she received a phone call from the seller, Ms. Diane Wilcox, who has requested permission to continue to sell at the retail store until the applicant is ready to move to the new location. She stated that the Bill of Sale indicates that the sale is contingent upon the applicant receiving the license. However, no contact has been made with the applicant as to his intentions.

Director Elks stated it is three-fold what the Commission needs to consider and that is to grant the license to the new applicant, permission to transfer locations or give permission for the licensee to continue to operate under the current license until the new license is issued.

Because confusion exists regarding whether the applicant intends to operate the business at the current location if approved, Commissioner Mathews made a motion to defer this matter to the July meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

3. CONTESTED CASES

a. ADMINISTRATIVE CITATION HEARINGS

1. Maria Salazar

On April 20, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Los Pilares of Bartlett. TABC Agent Cathey issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Carolyn Smith stated that the administrative citation has been resolved and that Maria Salazar has paid the citation.

2. Jason Matthew Quinn

On May 4, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at The American Cafe. TABC Agent Fry issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Carolyn Smith stated that SA Stacey Fry has attempted on several tries and was not able to make contact with Jason Quinn. She further stated that the staff had not received payment.

SA Stacey Fry stated that SA Jimmy Crowe set up the sale to a minor operation and that we used a 19 year old female confidential informant. SA Fry stated that the informant was seated at the bar. The informant ordered a rum and coke. The bartender asked for her ID. She showed the bartender the ID and then he got the drink for her. She paid for the drink and then she got up and left. SA Fry stated that she then went to the bar and sat beside the drink and then SA Crowe came to the bar and they approached the bartender, Mr. Jason Quinn, and told him that he had served a minor. SA Fry, SA Crowe and Jason Quinn went into the manager's office and explained the administrative process to Mr. Quinn and gave him his copy and told him that he could have his hearing or that he could pay the fine.

Assistant Director Smith stated that the administrative citation had the date and time of this Commission meeting and also advises him that failure to appear to answer or satisfy the citation will be the same as a conviction and could result in the denial, suspension or revocation of his server permit.

Assistant Director stated that based on this citation and what SA Fry has explained to the Commission, the staff is requesting the Commission to uphold the citation and to revoke the permit.

Chairman Jones made a motion to suspend Mr. Quinn's server permit for 90 days from this date and that he remain subject to the \$250 fine. At the end of the 90 days, he could have his server permit reinstated subject to paying the fine. Commissioner Mathews seconded the motion and it passed with 2 ayes.

3. Alfredo Castillo

On May 4, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Chapultepec. TABC Agent Fry issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Carolyn Smith stated that Mr. Alfredo Castillo had contacted her and requested that his hearing be continued to the next Commission meeting. He stated that he wanted more time to find an attorney to accompany him. She stated that the staff has no objection to continuing the matter to the next meeting.

Chairman Jones made a motion to defer this matter to the July Commission meeting. Commissioner Mathews seconded the motion and it passed with 2 ayes.

4. Peter Albert Mallett

On May 4, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at The Bottom Line. TABC Agent Fry issued an administrative citation to Respondent. To date, this citation remains unpaid.

Discussion/Action Taken:

Assistant Carolyn Smith stated that the administrative citation has been resolved and that Peter Albert Mallett has paid the citation.

b. SERVER PERMIT HEARINGS

Kathryn Lee Ann Jones

Ms. Jones has appealed the decision of TABC staff denying her application for a server permit, and has requested a hearing. TABC staff denied Ms. Jones' application for a permit based upon a prostitution conviction on September 30, 2004. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any sex-related crime within eight years of the date of the application.

Discussion/Action Taken:

Kathryn LeeAnn Jones was present at the meeting. Assistant Carolyn Smith stated that Ms. Jones submitted an application for a server permit to the Memphis TABC office and that the application was denied based on a prostitution conviction that was in September 2004. The statute states that the server permits cannot be issued within eight (8) years of that type conviction.

Chairman Jones requested the staff of what precedence had been set. Director Elks stated that the Commission has continued certain matters where the convictions that require an eight (8) year time period, if those convictions have fallen between the four (4) and the eight (8) year time period, the Commission has continued those matters and allowed the individual to continue to operate under an expired card to determine what, if anything, the General Assembly will do to give the Commission some discretion. However, the Respondent does not fall within the exception that the Commission has established because her conviction was in 2004.

Chairman Jones made a motion to continue the matter to the September Commission meeting. Commissioner Mathews seconded the motion and it passed with 2 ayes.

- 4. SPECIAL OCCASION LICENSES**
- 5. CONSUMER EDUCATION SEMINAR LICENSES**
- 6. PERSONNEL** - Director Elks recognized Ms. Brandi Atkins, as graduating on this date and that her degree is Multi Media from the ITT Tech Institute.
- 7. BUDGET**
- 8. CONSENT ORDERS**
- 9. PENDING MATTERS LIST**
- 10. MISCELLANEOUS**
- 11. DATE OF NEXT MEETING** – July 20 and August 17, 2006 at 1:00 p.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman

